

Executive Summary – Enforcement Matter – Case No. 43164

City of Asherton

RN101721348

Docket No. 2011-2329-MWD-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

Media:

MWD

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

City of Asherton WWTP, located approximately 6,000 feet northeast of U.S. Highway 83 and 4,000 feet northwest of Farm-to-Market Road 190, Dimmit County

Type of Operation:

Wastewater treatment plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: November 16, 2012

Comments Received: No

Penalty Information

Total Penalty Assessed: \$25,680

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$25,680

Name of SEP: Wastewater Treatment Plant Improvement Project (Compliance SEP)

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

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City of Asherton
RN101721348
Docket No. 2011-2329-MWD-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: December 9, 2011

Date(s) of NOE(s): December 12, 2011

Violation Information

1. Failed to ensure that all systems of collection, treatment, and disposal are properly operated and maintained [Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013746001, Operational Requirements No. 1 and 30 TEX. ADMIN. CODE § 305.125(1)].
2. Failed to employ or contract a licensed individual holding the appropriate level of license to operate the Facility [TPDES Permit No. WQ0013746001, Other Requirements No. 1 and 30 TEX. ADMIN. CODE § 30.350(d)].
3. Failed to notify the Executive Director of any substantial change in the volume or character of pollutants being introduced into the Publicly Operated Treatment Works ("POTW") by a source introducing pollutants into the POTW at the time of issuance of the permit [TPDES Permit No. WQ0013746001, Monitoring and Reporting Requirements No. 11.b. and 30 TEX. ADMIN. CODE § 305.125(1)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

1. The Order will require Respondent to implement and complete a Supplemental Environmental Project ("SEP"). (See SEP Attachment A)
2. The Order will also require Respondent to:
 - a. Within 15 days, employ or contract a licensed individual holding the appropriate level of license to operate the Facility.
 - b. Within 30 days:
 - i. Repair/replace the alarm at each of the four lift stations and remove the grease accumulation; and

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- ii. Provide an additional pump and vacuum breakers on the hose bibbs at lift stations Nos. 1, 3, and 4.
- c. Within 45 days, submit notification of the volume and character of the pollutants entering the wastewater treatment facility.
- d. Within 60 days, submit written certification demonstrating compliance.

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Jorge Ibarra, P.E., Enforcement Division, Enforcement Team 3, MC R-04, (817) 588-5890; Debra Barber, Enforcement Division, MC 219, (512) 239-0412
TCEQ SEP Coordinator: Sharon Blue, SEP Coordinator, Litigation Division, MC 175, (512) 239-2223
Respondent: The Honorable Alithvia Martinez, Mayor, City of Asherton, P.O. Box 450, Asherton, Texas 78827
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	19-Dec-2011	Screening	20-Dec-2011	EPA Due	
	PCW	22-Dec-2011				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Asherton	
Reg. Ent. Ref. No.	RN101721348	
Facility/Site Region	16-Laredo	Major/Minor Source Minor

CASE INFORMATION

Enf./Case ID No.	43164	No. of Violations	3
Docket No.	2011-2329-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Jorge Ibarra, P.E.
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** \$12,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **114.0%** Enhancement **Subtotals 2, 3, & 7** \$13,680

Notes Enhancement for two orders containing denial of liability, four NOVs with same/similar violations, two NOVs with dissimilar violations, and 25 months of self-reported effluent violations.

Culpability **No** **0.0%** Enhancement **Subtotal 4** \$0

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** \$0

Economic Benefit **0.0%** Enhancement* **Subtotal 6** \$0

Total EB Amounts \$7,726
Approx. Cost of Compliance \$16,000
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$25,680

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount \$25,680

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$25,680

DEFERRAL **0.0%** Reduction **Adjustment** \$0

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

No deferral is recommended for Findings Orders.

PAYABLE PENALTY \$25,680

Screening Date 20-Dec-2011

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PCW

Respondent City of Asherton

Policy Revision 2 (September 2002)

Case ID No. 43164

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101721348

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	4	20%
	Other written NOVs	27	54%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 114%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for two orders containing denial of liability, four NOVs with same/similar violations, two NOVs with dissimilar violations, and 25 months of self-reported effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 114%

Screening Date 20-Dec-2011

Docket No. 2011-2329-MWD-E

PCW

Respondent City of Asherton

Policy Revision 2 (September 2002)

Case ID No. 43164

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101721348

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 1

Rule Cite(s)

Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013746001, Operational Requirements No. 1 and 30 Tex. Admin. Code § 305.125(1)

Violation Description

Failed to ensure that all systems of collection, treatment, and disposal are properly operated and maintained. Specifically, the four lift stations at the Facility were not maintained properly as follows: the alarm was not functioning and there was heavy grease buildup on the piping at the Facility's lift station; the alarm was not functioning, only one pump was provided, there was a moderate amount of grease in the wet well, and the utility pole was propped up with PVC pipe at lift station no. 1; the alarm was not functioning, only one pump was provided, and there was an excessive amount of grease in the wet well at lift station no. 3; and the alarm was not functioning, only one pump was provided, and there was an excessive amount of grease and buildup in the wet well at lift station no. 4.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 4

11 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$10,000

Four monthly events are recommended from the record review date of December 9, 2011 to the screening date of December 20, 2011 (one monthly event for each lift station).

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$10,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$618

Violation Final Penalty Total \$21,400

This violation Final Assessed Penalty (adjusted for limits) \$21,400

Economic Benefit Worksheet

Respondent City of Asherton
Case ID No. 43164
Reg. Ent. Reference No. RN101721348
Media Water Quality
Violation No. 1

Percent Interest 5.0
Years of Depreciation 15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount
Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$5,000	25-Jan-2010	15-Jul-2012	2.47	\$618	n/a	\$618

Notes for DELAYED costs

Estimated cost to repair/replace the alarms at each of the lift stations, to provide an additional pump and vacuum breaker on hose bibb at lift stations nos. 1, 3, and 4, and to make all other repairs to the lift stations as needed. Date required is the initial investigation date and the final date is the expected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$618

Screening Date 20-Dec-2011
Respondent City of Asherton
Case ID No. 43164
Reg. Ent. Reference No. RN101721348
Media [Statute] Water Quality
Enf. Coordinator Jorge Ibarra, P.E.

Docket No. 2011-2329-MWD-E

PCW

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Violation Number 2

Rule Cite(s)

TPDES Permit No. WQ0013746001, Other Requirements No. 1 and 30 Tex. Admin. Code § 30.350(d)

Violation Description

Failed to employ or contract a licensed individual holding the appropriate level of license to operate the Facility. Specifically, the Respondent employs an operator that holds a Category D wastewater license while the permit requires a Category C licensed operator.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		X	

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to employ or contract an individual holding the appropriate license category to operate the Facility could result in poor operation of the Facility, which in turn will or could result in the exposure of significant amounts of pollutants which would not exceed levels that are protective of human health or the environment.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

11 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$1,000

One quarterly event is recommended from the record review date of December 9, 2011 to the screening date of December 20, 2011.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Reduction	
	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$7,048

Violation Final Penalty Total \$2,140

This violation Final Assessed Penalty (adjusted for limits) \$2,140

Economic Benefit Worksheet

Respondent City of Asherton
Case ID No. 43164
Req. Ent. Reference No. RN101721348
Media Water Quality
Violation No. 2

Percent Interest 5.0
Years of Depreciation 15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel	\$10,000	19-Apr-2011	20-Dec-2011	0.67	\$336	\$6,712	\$7,048
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated annual salary difference between a licensed C and D wastewater operator. Date required is date the violation was first documented and the final date is the screening date.

Approx. Cost of Compliance

\$10,000

TOTAL

\$7,048

Screening Date 20-Dec-2011
Respondent City of Asherton
Case ID No. 43164
Reg. Ent. Reference No. RN101721348
Media [Statute] Water Quality
Enf. Coordinator Jorge Ibarra, P.E.
Violation Number 3
Rule Cite(s)

Docket No. 2011-2329-MWD-E

PCW

Policy Revision 2 (September 2002)
PCW Revision October 30, 2008

Violation Description

TPDES Permit No. WQ0013746001, Monitoring and Reporting Requirements No. 11.b. and 30 Tex. Admin. Code § 305.125(1)

Failed to notify the Executive Director of any substantial change in the volume or character of pollutants being introduced into the Publicly Operated Treatment Works ("POTW"). Specifically, waste manifests dated May 5, 2011 and December 18, 2010 documented that special waste was introduced into the Facility.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

	4/19/2011				Percent
		Major	Moderate	Minor	
		x			10%

Matrix Notes: 100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 1 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$1,000

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes: The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$60

Violation Final Penalty Total \$2,140

This violation Final Assessed Penalty (adjusted for limits) \$2,140

Economic Benefit Worksheet

Respondent City of Asherton
Case ID No. 43164
Reg. Ent. Reference No. RN101721348
Media Water Quality
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,000	19-Apr-2011	1-Jul-2012	1.20	\$60	n/a	\$60

Notes for DELAYED costs

Estimated cost to notify the Executive Director of any substantial change in the volume or character of pollutants being introduced into the POTW. Date required is the initial investigation date and the final date is the expected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

TOTAL

\$60

Compliance History

Customer/Respondent/Owner-Operator:	CN600654701	City of Asherton	Classification: AVERAGE	Rating: 2.93
Regulated Entity:	RN101721348	CITY OF ASHERTON	Classification: AVERAGE	Site Rating: 2.70
ID Number(s):	WASTEWATER	PERMIT		WQ0013746001
	WASTEWATER	EPA ID		TX0071056
Location:	approximately 6,000 feet northeast of United States Highway 83 and 4,000 feet northwest of Farm-to-Market Road 190 in Dimmit County, Texas			
TCEQ Region:	REGION 16 - LAREDO			
Date Compliance History Prepared:	December 20, 2011			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	December 20, 2006 to December 20, 2011			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Jorge Ibarra, P.E. Phone: (817) 588-5890

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? YES
2. Has there been a (known) change in ownership/operator of the site during the compliance period? NO
3. If YES, who is the current owner/operator? N/A
4. If YES, who was/were the prior owner(s)/operator(s)? N/A
5. If YES, when did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2011 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

Effective Date: 04/25/2010 ADMINORDER 2009-1464-MWD-E

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: Effluent Limits PERMIT

Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.

Classification: Minor

Citation: 2A TWC Chapter 5, SubChapter A 5.702
2D TWC Chapter 26, SubChapter A 26.0135(h)
30 TAC Chapter 21 21.4
30 TAC Chapter 290, SubChapter D 290.51(a)(3)
5A THSC Chapter 341, SubChapter A 341.041

Description: Failed to pay overdue Public Health Service and Consolidated Water Quality fees and penalties associated with Account Nos. 90640011 and 23004848 for fiscal year 2008.

Effective Date: 02/05/2011

ADMINORDER 2009-0176-MWD-E

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: Other requirements #4 PERMIT

Description: Failed to provide documentation of the pond liner certification.

Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 309, SubChapter B 309.13(e)

Rqmt Prov: Other Requirements No. 7 PERMIT

Description: Failed to submit a nuisance odor prevention request and obtain approval.

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	12/18/2008	(721369)
2	02/26/2008	(729972)
3	02/26/2008	(729973)
4	02/26/2008	(729974)
5	02/26/2008	(729976)
6	02/26/2008	(729977)
7	11/21/2008	(729979)
8	02/26/2008	(729982)
9	07/18/2007	(729983)
10	04/14/2008	(729984)
11	04/11/2007	(729985)
12	02/26/2008	(729988)
13	07/18/2007	(729989)
14	08/21/2008	(729990)
15	04/11/2007	(729991)
16	10/15/2008	(729992)
17	02/26/2008	(729993)
18	06/30/2007	(729994)
19	08/21/2008	(729995)
20	04/11/2007	(729996)
21	02/26/2008	(729997)
22	02/26/2008	(729998)
23	10/21/2008	(729999)
24	08/21/2008	(730000)
25	04/11/2007	(730001)
26	02/26/2008	(730002)
27	02/26/2008	(730003)
28	01/29/2009	(730004)
29	02/26/2008	(730005)
30	02/26/2008	(730007)
31	02/26/2008	(730008)
32	09/19/2007	(730009)
33	09/05/2008	(730010)
34	02/26/2008	(730011)
35	02/26/2008	(730012)
36	10/21/2008	(730013)
37	11/10/2008	(730014)
38	02/26/2008	(730016)
39	02/26/2008	(730017)

40	10/21/2008	(730018)
41	11/10/2008	(730019)
42	02/26/2008	(730021)
43	10/21/2008	(730022)
44	12/19/2008	(730023)
45	02/26/2008	(730025)
46	02/26/2008	(730026)
47	02/28/2008	(730027)
48	01/26/2009	(730028)
49	04/21/2009	(753199)
50	04/01/2009	(753200)
51	04/19/2009	(753201)
52	04/20/2009	(753202)
53	08/27/2009	(761814)
54	05/05/2009	(770736)
55	02/25/2010	(793023)
56	02/23/2010	(812022)
57	05/20/2009	(812023)
58	10/15/2009	(812024)
59	07/14/2009	(812025)
60	09/17/2009	(812026)
61	10/22/2009	(812027)
62	12/14/2009	(812028)
63	12/23/2009	(812029)
64	01/08/2010	(812030)
65	03/02/2010	(827880)
66	04/21/2010	(833402)
67	05/12/2010	(833403)
68	06/01/2010	(845265)
69	06/11/2010	(847059)
70	07/01/2010	(867842)
71	08/05/2010	(867843)
72	09/20/2010	(874792)
73	12/06/2010	(888836)
74	12/06/2010	(888837)
75	12/15/2010	(890653)
76	03/10/2011	(917216)
77	03/16/2011	(927680)
78	04/13/2011	(927681)
79	01/24/2011	(927682)
80	01/24/2011	(927683)
81	05/06/2011	(938909)
82	06/27/2011	(946288)
83	09/30/2011	(950578)
84	06/21/2011	(953557)

85	10/10/2011	(959134)
86	08/29/2011	(960183)
87	10/07/2011	(972256)
88	10/10/2011	(972257)
89	12/12/2011	(974248)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	03/31/2007	(729983)	CN600654701	
Self Report?	YES			Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	06/30/2007	(729999)	CN600654701	
Self Report?	YES			Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	07/31/2007	(730004)	CN600654701	
Self Report?	YES			Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	10/31/2007	(730018)	CN600654701	
Self Report?	YES			Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	12/31/2007	(730027)	CN600654701	
Self Report?	YES			Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	01/31/2008	(729974)	CN600654701	
Self Report?	YES			Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	02/29/2008	(729979)	CN600654701	
Self Report?	YES			Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	03/31/2008	(729984)	CN600654701	
Self Report?	YES			Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	04/30/2008	(729990)	CN600654701	
Self Report?	YES			Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			

Date	05/28/2008	(670904)	CN600654701	
Self Report?	NO		Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) Operational Requirements, #1 PERMIT			
Description:	Failure to properly operate and maintain all facilities and systems of treatment and control installed or used by the permittee to achieve compliance with permit conditions.			
Self Report?	NO		Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Other requirements #4 PERMIT			
Description:	Failed to provide documentation of the pond liner certification.			
Date	11/30/2008	(730023)	CN600654701	
Self Report?	YES		Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	12/31/2008	(730028)	CN600654701	
Self Report?	YES		Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	01/31/2009	(753199)	CN600654701	
Self Report?	YES		Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	02/28/2009	(753200)	CN600654701	
Self Report?	YES		Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	03/31/2009	(753201)	CN600654701	
Self Report?	YES		Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	09/30/2009	(812027)	CN600654701	
Self Report?	YES		Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	12/31/2009	(812030)	CN600654701	
Self Report?	YES		Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	01/31/2010	(812022)	CN600654701	
Self Report?	YES		Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	02/25/2010	(793023)	CN600654701	
Self Report?	NO		Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5)			

Description:	Failure of the Regulated Entity to properly maintain lift-stations within the collection system.	
Self Report?	NO	Classification: Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5)	
Description:	Failure of the Regulated Entity to properly provide ground maintenance to pond discharge route.	
Date	02/28/2010 (833402)	CN600654701
Self Report?	YES	Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)	
Description:	Failure to meet the limit for one or more permit parameter	
Date	03/02/2010 (827880)	CN600654701
Self Report?	NO	Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)	
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE	
Date	04/30/2010 (845265)	CN600654701
Self Report?	YES	Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)	
Description:	Failure to meet the limit for one or more permit parameter	
Date	05/31/2010 (847059)	CN600654701
Self Report?	YES	Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)	
Description:	Failure to meet the limit for one or more permit parameter	
Date	07/31/2010 (867843)	CN600654701
Self Report?	YES	Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)	
Description:	Failure to meet the limit for one or more permit parameter	
Date	10/31/2010 (888837)	CN600654701
Self Report?	YES	Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)	
Description:	Failure to meet the limit for one or more permit parameter	
Date	12/15/2010 (890653)	CN600654701
Self Report?	NO	Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)	
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE	
Date	04/30/2011 (938909)	CN600654701
Self Report?	YES	Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)	
Description:	Failure to meet the limit for one or more permit parameter	
Date	05/31/2011 (946288)	CN600654701
Self Report?	YES	Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)	
Description:	Failure to meet the limit for one or more permit parameter	
Date	06/17/2011 (923033)	CN600654701
Self Report?	NO	Classification: Moderate

Citation:	30 TAC Chapter 305, SubChapter F 305.125(5)		
Description:	Failure of the Regulated Entity to properly maintain lift-stations within the collection system.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 30, SubChapter J 30.331(b) 30 TAC Chapter 30, SubChapter J 30.350(d) page 23, Other Requirements PERMIT		
Description:	Failure to employ a Category C licensed operator.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Page 6, Standard Permit Conditions PERMIT		
Description:	Failure to abide by permit conditions; specifically, failure to notify the Executive Director of any substantial change in the volume or character of pollutants being introduced into the Publicly Operated Treatment Works by a source introducing pollutants into the POTW at the time of issuance of the permit.		
Self Report?	NO	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 2D TWC Chapter 26, SubChapter A 26.121(a)(1) 2D TWC Chapter 26, SubChapter A 26.121(a)(3) 2D TWC Chapter 26, SubChapter A 26.121(b) 2D TWC Chapter 26, SubChapter A 26.121(c) 2D TWC Chapter 26, SubChapter A 26.121(d) 2D TWC Chapter 26, SubChapter A 26.121(e) 30 TAC Chapter 305, SubChapter F 305.125(4) 30 TAC Chapter 305, SubChapter F 305.125(5) page 7, Permit Conditions PERMIT TWC Chapter 26 26.121 TWC Chapter 26 26.121(a)(2)		
Description:	Failure to prevent an unauthorized discharge from the collection system.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(9) page 5, Standard Permit Conditions PERMIT		
Description:	Failure to notify the TCEQ within 24 hours of becoming aware of a noncompliance.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) page 2, Effluent Limitations and Monitor PERMIT		
Description:	Failure to abide by permit effluent limitations.		
Date	08/31/2011	(972256)	CN600654701
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	10/11/2011	(959134)	CN600654701
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5)		
Description:	Failure of the Regulated Entity to properly maintain lift-stations within the collection system.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 30, SubChapter J 30.331(b) 30 TAC Chapter 30, SubChapter J 30.350(d) page 23, Other Requirements PERMIT		
Description:	Failure to employ a Category C licensed operator.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Page 6, Standard Permit Conditions PERMIT		
Description:	Failure to abide by permit conditions; specifically, failure to notify the Executive Director of any substantial change in the volume or character of pollutants being		

introduced into the Publicly Operated Treatment Works by a source introducing pollutants into the POTW at the time of issuance of the permit.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
page 2, Effluent Limitations and Monitor PERMIT

Description: Failure to abide by permit effluent limitations.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF ASHERTON
RN101721348**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2011-2329-MWD-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Asherton ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a wastewater treatment plant located approximately 6,000 feet northeast of United States Highway 83 and 4,000 feet northwest of Farm-to-Market Road 190 in Dimmit County, Texas (the "Facility").

2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During a record review on December 9, 2011, TCEQ staff documented that the Respondent did not ensure that all systems of collection, treatment, and disposal are properly operated and maintained. Specifically, the four lift stations at the Facility were not maintained properly as follows: the alarm was not functioning and there was heavy grease buildup on the piping at the Facility's lift station; the alarm was not functioning, only one pump was provided, there was a moderate amount of grease in the well, and the utility pole was propped up with PVC pipe at lift station no. 1; the alarm was not functioning, only one pump was provided, and there was an excessive amount of grease in the wet well at lift station no. 3; and the alarm was not functioning, only one pump was provided, and there was an excessive amount of grease in the wet well at lift station no. 4.
4. During a record review on December 9, 2011, TCEQ staff documented that the Respondent did not employ or contract a licensed individual holding the appropriate level of license to operate the Facility. Specifically, the Respondent employs an operator that holds a Category D wastewater license while the permit requires a Category C licensed operator.
5. During a record review on December 9, 2011, TCEQ staff documented that the Respondent did not notify the Executive Director of any substantial change in the volume or character of pollutants being introduced into the Publicly Operated Treatment Works ("POTW"). Specifically, waste manifests dated May 5, 2011 and December 18, 2010 documented that special wastes were introduced into the Facility.
6. The Respondent received notice of the violations on December 17, 2011.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to ensure that all systems of collection, treatment, and disposal are properly operated and maintained, in violation of Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013746001, Operational Requirements No. 1 and 30 TEX. ADMIN. CODE § 305.125(1).
3. As evidenced by Findings of Fact No. 4, the Respondent failed to employ or contract a licensed individual holding the appropriate level of license to operate the Facility, in violation of TPDES Permit No. WQ0013746001, Other Requirements No. 1 and 30 TEX. ADMIN. CODE § 30.350(d).

4. As evidenced by Findings of Fact No. 5, the Respondent failed to notify the Executive Director of any substantial change in the volume or character of pollutants being introduced into the POTW by a source introducing pollutants into the POTW at the time of issuance of the permit, in violation of TPDES Permit No. WQ0013746001, Monitoring and Reporting Requirements No. 11.b. and 30 TEX. ADMIN. CODE § 305.125(1).
5. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
6. An administrative penalty in the amount of Twenty-Five Thousand Six Hundred Eighty Dollars (\$25,680) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Twenty-Five Thousand Six Hundred Eighty Dollar (\$25,680) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Twenty-Five Thousand Six Hundred Eighty Dollars (\$25,680) as set forth in Section II, Paragraph 6 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Asherton, Docket No. 2011-2329-MWD-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section II, Paragraph 6 above, Twenty-Five Thousand Six Hundred Eighty Dollars (\$25,680) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally

offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.

3. The Respondent shall undertake the following technical requirements:
- a. Within 15 days after the effective date of this Agreed Order, employ or contract a licensed individual holding the appropriate level of license to operate the Facility, in accordance with TPDES Permit No. WQ0013746001, Other Requirements No. 1;
 - b. Within 30 days after the effective date of this Agreed Order:
 - i. Repair/replace the alarm at each of the four lift stations and remove the grease accumulation; and
 - ii. Provide an additional pump and vacuum breakers on the hose bibbs at lift stations Nos. 1, 3, and 4.
 - c. Within 45 days after the effective date of this Agreed Order, submit notification of the volume and character of the pollutants entering the wastewater treatment facility, in accordance with TPDES Permit No. WQ0013746001, Monitoring and Reporting Requirements No. 11 to:

Municipal Permit Team
Water Quality Division, MC 148
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087
 - d. Within 60 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 3.a. through 3.c. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false

information, including the possibility of fines and imprisonment for knowing violations.”

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager
Laredo Regional Office
Texas Commission on Environmental Quality
707 East Calton Road, Suite 304
Laredo, Texas 78041-3887

4. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.

8. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
9. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
10. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
11. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

James J. J. J.
For the Executive Director

2/15/13
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Asherton. I am authorized to agree to the attached Agreed Order on behalf of the City of Asherton, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, the City of Asherton waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Althia C. Martinez
Signature

9-18-2012
Date

Althia C. Martinez
Name (Printed or typed)
Authorized Representative of
City of Asherton

Mayor
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section III, Paragraph 1 of this Agreed Order.

Attachment A
Docket Number: 2011-2329-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Asherton
Penalty Amount:	Twenty-Five Thousand Six Hundred Eighty Dollars (\$25,680)
SEP Offset Amount:	Twenty-Five Thousand Six Hundred Eighty Dollars (\$25,680)
Type of SEP:	Compliance SEP
Project Name:	<i>Wastewater Treatment Plant Improvement Project</i>
Location of SEP:	Dimmit County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative Penalty Amount assessed in this Agreed Order for Respondent to contribute to a Supplemental Environmental Project ("SEP"). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

Respondent is a Local Government that qualifies under Texas Water Code § 7.067 to apply the SEP Offset Amount set forth above to correct violations at its wastewater treatment facility which are described in this Agreed Order. This Agreed Order cites violations at the Respondent's wastewater treatment facility. Respondent shall purchase and install additional equipment for four lift stations within the wastewater collection system. Specifically, the SEP Offset Amount shall be used to purchase parallel pumps, motors, and panel electrical control boxes with alarms for each lift station (the "Project"). Respondent shall use its own (non-SEP) funds to install the equipment for the Project. Any advertisements, including solicitation for bids publication, related to the SEP must include the enforcement statement as stated in Section 6, Publicity, below. The Project will be performed in accordance with all federal, state, and local environmental laws and regulations, including obtaining any permits that may be required prior to commencement of the work.

Respondent shall use the SEP Offset Amount only for the direct cost of implementing the Project, including supplies, materials, and equipment rentals, as listed in Subsection C. Minimum Expenditure, Estimated Cost Schedule, below. No portion of the SEP Offset Amount shall be spent on administrative costs, including but not limited to operating costs, reporting expenses, handling of expenses, project coordination, liability, or equipment breakdowns.

Respondent's signature affixed to the attached Agreed Order certifies that Respondent has no prior commitment to perform this Project, and that the SEP is being performed solely as part of the terms of settlement in this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by improving the quality of wastewater effluent being released into the environment. Inadequately treated effluent can carry bacteria, viruses, protozoa (parasitic organisms), helminthes (intestinal worms), and bioaerosols

(inhalable molds and fungi). The diseases they may cause range in severity from mild gastroenteritis (causing stomach cramps and diarrhea) to life-threatening ailments such as cholera, dysentery, infectious hepatitis, and severe gastroenteritis.

C. Minimum Expenditure

Respondent shall spend at least the SEP Offset Amount to complete the Project described in Section 1, above, and comply with all other provisions of this SEP. Respondent understands that it may cost more than the SEP Offset Amount to complete the Project.

Estimated Cost Schedule

Item	Quantity	Cost	Total
Parallel pump	6	\$3,686	\$22,116
Motors	3	\$788	\$2,364
Panel electrical control boxes with alarms	3	\$1,450	\$4,350
Total			\$28,830

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent shall begin implementation of the SEP. Respondent shall have completed the SEP in its entirety within 60 days after the effective date of this Agreed Order.

3. Records and Reporting

A. Progress Report

Within 30 days after the effective date of this Agreed Order, Respondent shall submit a Notice of Commencement to the TCEQ describing actions performed to date to implement the Project. Within 30 days of the effective date of this Agreed Order, Respondent shall submit a report detailing the progress made and all actions completed on the Project during the previous 30-day period and setting forth a schedule for achieving completion of the Project within the 60-day time-frame set forth in Section 2, Performance Schedule, above. Respondent shall submit progress reports to the TCEQ as set forth in the Reporting Schedule table below:

Days from Effective Order Date	Information Required
30	Notice of Commencement describing actions taken to begin project
60	Notice of SEP completion

B. Final Report

Within 60 days after the effective date of the Agreed Order, or within 30 days after completion of SEP, whichever is earlier, Respondent shall submit a Final Report to the TCEQ, which shall include the following:

1. Itemized list of expenditures and total cost of the Project;
2. Copies of invoices, paid receipts, cleared checks or payment records corresponding to the itemized list in paragraph 3.B.1., above;
3. Dated photographs of the purchased equipment; the old equipment being removed; before and after work being performed during the installation process; and of the completed Project;
4. A notarized/certified statement and supporting documentation demonstrating the quantifiable environmental benefits achieved as a result of the Project; and
5. Any additional information demonstrating compliance with this Attachment A.

C. Address

Respondent shall submit all SEP reports and any additional information as requested to the following address:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

4. Additional Information and Access

Respondent shall provide additional information as requested by TCEQ staff, and shall allow access to all records related to the SEP Offset Amount. Respondent shall also allow representatives of the TCEQ access to the site of any work being financed in whole or in part by the SEP Offset Amount. This provision shall survive the termination of this Agreed Order.

5. Failure to Fully Perform

If Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 through 3, above, the Executive Director ("ED") may require immediate payment of all or part of the SEP Offset Amount as set forth in the attached Agreed Order.

In the event the ED determines that Respondent failed to fully implement and complete the Project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for reimbursement of a SEP, shall make the check payable to "Texas Commission on Environmental Quality," and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

6. Publicity

Any public statements concerning this Project made by or on behalf of Respondent must include a clear statement that **the Project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

7. Clean Texas Program

Respondent shall not include this Project in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

8. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

Attachment A
Docket Number: 2011-2329-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Asherton
Penalty Amount:	Twenty-Five Thousand Six Hundred Eighty Dollars (\$25,680)
SEP Offset Amount:	Twenty-Five Thousand Six Hundred Eighty Dollars (\$25,680)
Type of SEP:	Compliance SEP
Project Name:	<i>Wastewater Treatment Plant Improvement Project</i>
Location of SEP:	Dimmit County

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset the administrative Penalty Amount assessed in this Agreed Order for Respondent to contribute to a Supplemental Environmental Project (“SEP”). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

Respondent is a Local Government that qualifies under Texas Water Code § 7.067 to apply the SEP Offset Amount set forth above to correct violations at its wastewater treatment facility which are described in this Agreed Order. This Agreed Order cites violations at the Respondent’s wastewater treatment facility. Respondent shall purchase and install additional equipment for four lift stations within the wastewater collection system. Specifically, the SEP Offset Amount shall be used to purchase parallel pumps, motors, and panel electrical control boxes with alarms for each lift station (the “Project”). Respondent shall use its own (non-SEP) funds to install the equipment for the Project. Any advertisements, including solicitation for bids publication, related to the SEP must include the enforcement statement as stated in Section 6, Publicity, below. The Project will be performed in accordance with all federal, state, and local environmental laws and regulations, including obtaining any permits that may be required prior to commencement of the work.

Respondent shall use the SEP Offset Amount only for the direct cost of implementing the Project, including supplies, materials, and equipment rentals, as listed in Subsection C. Minimum Expenditure, Estimated Cost Schedule, below. No portion of the SEP Offset Amount shall be spent on administrative costs, including but not limited to operating costs, reporting expenses, handling of expenses, project coordination, liability, or equipment breakdowns.

Respondent’s signature affixed to the attached Agreed Order certifies that Respondent has no prior commitment to perform this Project, and that the SEP is being performed solely as part of the terms of settlement in this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by improving the quality of wastewater effluent being released into the environment. Inadequately treated effluent can carry bacteria, viruses, protozoa (parasitic organisms), helminthes (intestinal worms), and bioaerosols

(inhalable molds and fungi). The diseases they may cause range in severity from mild gastroenteritis (causing stomach cramps and diarrhea) to life-threatening ailments such as cholera, dysentery, infectious hepatitis, and severe gastroenteritis.

C. Minimum Expenditure

Respondent shall spend at least the SEP Offset Amount to complete the Project described in Section 1, above, and comply with all other provisions of this SEP. Respondent understands that it may cost more than the SEP Offset Amount to complete the Project.

Estimated Cost Schedule

Item	Quantity	Cost	Total
Parallel pump	6	\$3,686	\$22,116
Motors	3	\$788	\$2,364
Panel electrical control boxes with alarms	3	\$1,450	\$4,350
Total			\$28,830

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent shall begin implementation of the SEP. Respondent shall have completed the SEP in its entirety within 60 days after the effective date of this Agreed Order.

3. Records and Reporting

A. Progress Report

Within 30 days after the effective date of this Agreed Order, Respondent shall submit a Notice of Commencement to the TCEQ describing actions performed to date to implement the Project. Within 30 days of the effective date of this Agreed Order, Respondent shall submit a report detailing the progress made and all actions completed on the Project during the previous 30-day period and setting forth a schedule for achieving completion of the Project within the 60-day time-frame set forth in Section 2, Performance Schedule, above. Respondent shall submit progress reports to the TCEQ as set forth in the Reporting Schedule table below:

Days from Effective Order Date	Information Required
30	Notice of Commencement describing actions taken to begin project
60	Notice of SEP completion

B. Final Report

Within 60 days after the effective date of the Agreed Order, or within 30 days after completion of SEP, whichever is earlier, Respondent shall submit a Final Report to the TCEQ, which shall include the following:

1. Itemized list of expenditures and total cost of the Project;
2. Copies of invoices, paid receipts, cleared checks or payment records corresponding to the itemized list in paragraph 3.B.1., above;
3. Dated photographs of the purchased equipment; the old equipment being removed; before and after work being performed during the installation process; and of the completed Project;
4. A notarized/certified statement and supporting documentation demonstrating the quantifiable environmental benefits achieved as a result of the Project; and
5. Any additional information demonstrating compliance with this Attachment A.

C. Address

Respondent shall submit all SEP reports and any additional information as requested to the following address:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

4. Additional Information and Access

Respondent shall provide additional information as requested by TCEQ staff, and shall allow access to all records related to the SEP Offset Amount. Respondent shall also allow representatives of the TCEQ access to the site of any work being financed in whole or in part by the SEP Offset Amount. This provision shall survive the termination of this Agreed Order.

5. Failure to Fully Perform

If Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 through 3, above, the Executive Director ("ED") may require immediate payment of all or part of the SEP Offset Amount as set forth in the attached Agreed Order.

In the event the ED determines that Respondent failed to fully implement and complete the Project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for reimbursement of a SEP, shall make the check payable to "Texas Commission on Environmental Quality," and shall mail it to:

Texas Commission on Environmental Quality
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6. Publicity

Any public statements concerning this Project made by or on behalf of Respondent must include a clear statement that **the Project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

7. Clean Texas Program

Respondent shall not include this Project in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

8. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.